

French employment law newsletter



LEGAL UPDATE

- **Amicable termination of the employment contract:** As from 1st April 2022 amicable termination of the employment contract must be handled on a dedicated website. The only exception is in case the parties can justify the website cannot be used.
[Decree n°2021-1639 of December 13, 2021](#)
- **Minimum hourly wage:** The minimum legal hourly wage is raised to €10.57 gross as of January 1, 2022. Consequently, the gross monthly legal minimum wage is now €1603.12 for 35 hours a week.
[Decree n°2021-1741 of December 22, 2021](#)
- **Termination indemnities:** The CSG and CRDS exemption limit for compensation awarded by a labour court judge for dismissal without real and serious cause is equal to 2 annual social security ceilings, without the need to refer to the scales used by the judge in application of the French Labor Code.
[BOSS update on termination indemnities on December 24, 2021, paragraph 1901](#)



CASE LAW UPDATE

- **Employees are entitled to lunch vouchers while on telework:** The Court of Appeal considered that all employees working remotely during Covid-19 should be entitled to lunch vouchers. The decision rationale was notably based on the fact that a collective agreement awarded such lunch vouchers to employees working remotely outside the Covid-19 context.
Paris Court of Appeal, December 2, 2021, n° 21/02021
- **An employer can object to a reinstatement obligation if justified by moral harassment:** An employer was under the obligation to reinstate a protected employee (staff representative) after cancellation of the administration authorization which authorized the dismissal. However, the employer proved the reinstatement has impossible as the concerned employees had committed some bullying. Compliance with employer's safety obligation regarding moral harassment therefore constitutes an absolute impossibility of reinstatement.
[Cass. soc., December 1st, 2021, n° 19-25.715](#)
- **The employee reinstated after the cancellation of his dismissal acquires days of paid leave during the period of eviction:** The French Judicial High Court reversed its case law to align itself with the European Union Court of Justice decision of June 25, 2020 (CJEU, June 25, 2020, aff. C-762/18 and C-37/19), considering that "except where the employee has held another job during the period of eviction between the date of the null and void dismissal and the date of reinstatement in his or her job, he or she may claim his or her paid leave entitlements in respect of that period".
[Cass. soc., December 1st, 2021, n° 19-24.766](#)
- **The absolute protection against maternity leave does not extend to the sick leave period that follows maternity leave:** It is possible to dismiss an employee for gross misconduct or impossibility to keep the employment contract during the 10 weeks protection period after maternity leave even though the employee was on sick leave just after the maternity leave. Therefore, unlike holidays that immediately follows maternity leave, sick leave does not extend the absolute protection against dismissal a women is entitled to during maternity leave.
[Cass. soc., December 1st, 2021, n°20-13.339](#)
- **No indemnity for not complying with the dismissal procedure in case of judicial termination of the employment contract.** The employee is not entitled to a one month indemnity for breach of procedural dismissal rules in case the employment contract is terminated by a court decision (judicial termination).
[Cass. soc., December 15, 2021, n°15-24.990 and n° 15-24.992](#)
- **First case of the French Judicial High Court on the unfair dismissal damages scale:** This is the first case law by the French Judicial High Court on the legal scale for damages in relation with unfair dismissal. The decision considers the scale refers to gross amounts not net amounts. It does not expressly valid the legal scale but in our view it is a first positive sign the scale will be considered as valid. New case law on that topic are waited in the upcoming months
[Cass. soc., December 15, 2021, n°20-18.782](#)



EVENTS TO COME

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